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TO: Michigan Senate Judiciary Committee

FROM: Daniel G. Saunders, Ph.D., Professor, University of Michigan School of Social Work

RE: House Bill 4480

I am writing in support of HB 4480. This legislation would prevent the court from considering negatively any action taken by a parent to protect a child or that parent from sexual assault or domestic violence by the other parent. Ideally, parents are willing and able to facilitate a close and continuing relationship between the children and the other parent. However, this ideal outcome is generally unrealistic when a history of domestic violence or sexual assault exists and when a parent makes good faith efforts to protect the children and themselves from violence. The scientific foundation for this conclusion is based on studies I have conducted with my colleagues at the University of Michigan and reviews of scientific studies by other researchers, which I summarize below.

### **Survivors' Are Reasonably Reluctant to Facilitate a Relationship with Other Parent**

There are several reasons domestic abuse survivors are reasonably reluctant to co-parent, have contact with an abusive ex-partner, or allow their children to have unsupervised contact with the other parent (Hardesty & Ganong, 2006):

a) One half of domestic abusers also physically abuse their children, according to a rigorous, nationally representative survey (Straus, 1983). Half of all abusers go on to find another partner to abuse, thus exposing the children to more domestic violence, which is a serious form of psychological abuse. In addition, as many as one fourth of survivors report their ex-partners threaten to hurt or kidnap their children (e.g., Leighton, 1989).

b) Stalking, harassment, and emotional abuse often continue and may increase after separation (e.g., Bachman & Saltzman, 1995; DeKeseredy & Schwartz, 2009; Tjaden & Thoennes, 2000;

Watson & Ancis, 2013). Survivors' fears are realistic because the risk of intimate partner homicide increases for a period of time following separation (Saunders & Browne, 2000). Research also shows that many abusers continue harassment and manipulation through legal channels (Bancroft & Silverman, 2002; Hardesty & Ganong, 2006; Hayes, 2012; Jaffe, Lemon, & Poisson, 2003; Zorza, 2010).

c) Co-parenting and even the simplest communication between ex-partners may be impossible. Conner (2011) concludes in a lengthy review of the literature: "Communication is made difficult, if not impossible, when one parent harasses, abuses, and intimidates the other parent. Not only are batterers poor decision makers, they also tend to use the power of joint parenting to exert control over the other parent" (p. 260).

For the above reasons, a growing number of states exempt victims from trying to meet the best interest standard of facilitating positive relationships between their children and their ex-partner (NCJFCJ, 2013).

### **Formal Reporting of Violence Not Likely to Occur**

Unfortunately, most domestic abuse remains hidden. Thus an important provision of HB4480 covers the protective action by a parent, whether or not a formal record exists of assaults and violence. Only a minority of domestic abuse survivors seek help, for example, by calling the police or telling their doctors (Barrett & Pierre, 2011; Kantor & Straus, 1990; Tjaden & Thoennes, 2000). The abuse often remains undetected in custody cases as well (e.g., Araj & Bosek, 2010; Davis, O'Sullivan, Fields, Susser, 2011; Johnson, Saccuzzo, & Koen, 2005; Kernic, Monary-Ernsdorff, Koepsell, & Holt, 2005; Voices of Women, 2008). Professionals may fail to ask about abuse or lack the necessary interviewing skills. Even when asked, survivors may be reluctant to report abuse, often fearing the report will be used against them (O'Sullivan, 2000; Saccuzzo & Johnson, 2004; Voices of Women, 2008). The widespread non-detection of domestic abuse means that a high proportion of divorcing couples labeled "high conflict cases" are actually domestic abuse cases (Jaffe, Crooks & Poisson, 2003; Johnston, Walters & Olesen, 2005).

### **Professional Bias and Overestimations of False Reports of Abuse**

Professionals are often too quick to assume that reports of child and domestic abuse are fabricated by parents in custody disputes. HB 4480 would help to counter this tendency because it would allow parents to report abuse and take protective actions without fear that such actions would be used against them in the custody determination. In our research on custody evaluation cases that allege child abuse (Saunders, Faller & Tolman, 2011), evaluators estimated much higher rates of false child abuse allegations than research studies show actually exist (for a review see Johnston, Lee, Oleson, & Walters, 2005). In addition, our study

of judges and custody evaluators shows a strong link between sexist beliefs and beliefs that battered women tend to make false allegations and are trying to alienate their children from the other parent (Saunders, Faller, & Tolman, 2011; Saunders, Tolman, & Faller, 2013). Of greatest concern, we found these beliefs to be linked to recommendations that child custody be awarded to perpetrators of domestic abuse.

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